

In the United States Court of Federal Claims

No. 15-767C

(E-Filed: May 3, 2022)

ACLR, LLC,)
)
Plaintiff,)
)
v.)
)
THE UNITED STATES,)
)
Defendant.)

PRE-TRIAL SCHEDULING ORDER

On April 29, 2022, the parties filed their joint status report providing specific calendar dates for their pre-trial exchanges required by the Rules of the United States Court of Federal Claims, Appendix A, Part VI, ¶ 13, and for their filings required by ¶¶ 14 through 17, pursuant to the court's January 5, 2022 order. See ECF No. 141.

The court commends the parties for their cooperation in the establishment of their agreed-upon schedule. Accordingly, in accordance with Appendix A, Part VI, ¶¶ 13-17, the court hereby establishes the parties' proposed pre-trial schedule with some additions:

(1) **Disclosure of Witnesses, Exhibits, and Deposition Testimony**

- (a) **Plaintiff's Witness & Exhibit Lists.** On or before **July 13, 2022**, pursuant to Appendix A, ¶¶ 13(a) and (b), plaintiff shall **FILE lists** of the exhibits that it expects to offer into evidence at trial and lists of the persons whom each party expects to call as witnesses at trial. The lists shall include the full name of each person, a brief description of the subject matter of the person's testimony and the expected length of examination. Pursuant to the requirements of Appendix A, Part VI, ¶ 15, if expert witness testimony is to be presented, the material described in RCFC 26(a)(2)(B) shall be filed.

- (b) **Defendant's Witness & Exhibit Lists.** On or before **August 5, 2022**, pursuant to Appendix A, ¶¶ 13(a) and (b), defendant shall **FILE lists** of the exhibits that it expects to offer into evidence at trial and lists of the persons whom each party expects to call as witnesses at trial. The lists shall include the full name of each person, a brief description of the subject matter of the person's testimony and the expected length of examination. Pursuant to the requirements of Appendix A, Part VI, ¶ 15, if expert witness testimony is to be presented, the material described in RCFC 26(a)(2)(B) shall be filed.
 - (c) **Defendant's Objections.** On or before **August 10, 2022**, defendant shall **FILE a list** any of plaintiff's proposed witnesses or exhibits from its July 13, 2022 lists to which there are anticipated objections (which are neither binding nor exclusive) and the basis therefor, keyed to the applicable Federal Rules of Evidence.
 - (d) **Plaintiff's Objections.** On or before **September 7, 2022**, plaintiff shall **FILE a list** any of defendant's proposed witnesses or exhibits from its August 5, 2022 lists to which there are anticipated objections (which are neither binding nor exclusive) and the basis therefor, keyed to the applicable Federal Rules of Evidence.
- (2) **Initial Meeting.** On or before **August 31, 2022**, pursuant to Appendix A, ¶ 13(c), counsel for the parties shall **meet** by telephone or in person: (1) to disclose any deposition transcripts that each party expects to move to introduce at trial; (2) to resolve, if possible, any objections to the admission of testimony (including deposition testimony) or exhibits; (3) to disclose all contentions as to applicable facts and law; (4) to engage in good-faith, diligent efforts to stipulate and agree to facts; (5) to consider whether to submit this case to the court for resolution upon the basis of a documentary record submitted by the parties; and, (6) to exhaust all possibilities of settlement.
- (a) By **September 7, 2022**, or within seven days after the meeting described in the preceding paragraph, whichever occurs earlier, counsel for the parties shall **FILE the joint certification** required by Appendix A, ¶ 13(d).
- (3) **Motions in Limine.** If applicable, on or before **September 9, 2022**, the parties are directed to **FILE any motions in limine**.

- (a) **Responses.** If applicable, on or before **October 5, 2022**, the parties shall **FILE** any **responses** to any motions in limine; and
 - (b) **Replies.** If applicable, On or before **October 19, 2022**, the parties shall **FILE** any **replies** to their motions in limine.
- (4) **Plaintiff's Pretrial Filings.** On or before **August 10, 2022**, pursuant to Appendix A, Part VI, ¶¶ 14(a) and (c), 15 and 16, plaintiff shall **FILE** the following:
 - (a) **Memorandum of Contentions of Fact and Law** in full and comprehensive compliance with the requirements set forth in Appendix A, Part VI, ¶ 14(a) and (c).
 - (b) In addition to the damages disclosure required by RCFC 26(a)(1)(A)(iii) and with respect to exhibits proposed in accordance with Appendix A, ¶ 13(a), any and all items and figures from books of account or other records, which are to be introduced in evidence in this matter, and any calculations or estimates derived therefrom, on separate **schedules or summaries**, such as will permit their pretrial verification by examination or audit or also serve to obviate the introduction into evidence of voluminous original materials. Any schedule or summary provided in this regard shall be accompanied by a statement describing the source(s) for the items or figures listed (ledgers, journals, payrolls, invoices, checks, time cards, etc.), the locations(s) of the source(s), the name and address of the person(s) who prepared each schedule or summary and who will be made available to the opposing party to provide information and explanations required for verification of the listed items or figures no later than twenty days prior to the pretrial conference.
 - (c) Plaintiff's **motion for leave to file deposition transcripts**, if applicable.
- (5) **Defendant's Pretrial Filings.** On or before **August 24, 2022**, pursuant to Appendix A, Part VI, ¶¶ 14(a) and (c), 15 and 16, defendant shall **FILE** the following:
 - (a) **Memorandum of Contentions of Fact and Law** in full and comprehensive compliance with the requirements set forth in Appendix A, ¶14(b) and (c).

- (b) In addition to the damages disclosure required by RCFC 26(a)(1)(A)(iii) and with respect to exhibits proposed in accordance with Appendix A, ¶ 13(a), any and all items and figures from books of account or other records, which are to be introduced in evidence in this matter, and any calculations or estimates derived therefrom, on separate **schedules or summaries**, such as will permit their pretrial verification by examination or audit or also serve to obviate the introduction into evidence of voluminous original materials. Any schedule or summary provided in this regard shall be accompanied by a statement describing the source(s) for the items or figures listed (ledgers, journals, payrolls, invoices, checks, time cards, etc.), the locations(s) of the source(s), the name and address of the person(s) who prepared each schedule or summary and who will be made available to the opposing party to provide information and explanations required for verification of the listed items or figures no later than twenty days prior to the pretrial conference.
 - (c) Defendant's **motion for leave to file deposition transcripts**, if applicable. Any response or reply deadlines shall be established pursuant to the court's rules.
- (6) **Stipulations and Joint Exhibits.** The parties are directed to **CONFER** for the purpose of reaching agreement upon all facts which may be the subject of a stipulation and upon all exhibits which may be consolidated as joint exhibits. The parties shall endeavor to designate as many Joint Exhibits (JX) as possible.
 - (a) Pursuant to Appendix A, Part VI, ¶¶ 17-18, on or before **October 26, 2022**, counsel for the parties are directed to **FILE** their agreed-upon **stipulation of facts** and **joint exhibit list** that identifies each exhibit by a joint exhibit number and description.
- (7) **Pretrial Conference.** The **pretrial conference** shall be **HELD** on Monday, **November 2, 2022**, at **11:00 a.m.**, eastern time, virtually via Zoom for Government. An email containing the link for the pretrial conference will issue in due course.
- (8) **Trial.** The parties have requested that the court hold the trial in this matter from November 9-18, 2022, "with additional trial days to occur during the week of November 28, 2022." ECF No. 141 at 1. Accordingly, **trial** shall be **HELD** on Wednesday, **November 9, 2022** at **9:30 a.m.**, eastern time, virtually via Zoom for Government.

The hours of daily proceedings shall be determined at the pretrial conference. The trial will continue until November 18, 2022, with additional days of trial to occur the week of November 28, 2022, until the presentation of evidence and argument is complete, but not beyond Wednesday, **November 30, 2022**.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
PATRICIA E. CAMPBELL-SMITH
Judge